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Notice of Allowability	Application No.	Applicant(s)	
	09/576,949	JONES ET AL.	
	Examiner	Art Unit	
	Dwin M Craig	2123	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1 June 2004.
2. ☒ The allowed claim(s) is/are 1-32.
3. ☒ The drawings filed on 4/27/2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

And

NOTICE OF ALLOWANCE

1. Claims 1-32 have are allowed.

Specification

2. The Examiner thanks the Applicant for the submission of an Abstract and removes any objection to the specification.

Nonstatutory Double Patenting

3. The Examiner has found Applicant's arguments to be persuasive in regards to the Judicially created doctrine of NON-Statutory Double Patenting rejections of **Claim 1** of Applicants instant application and **Claim 10** of **U.S. Patent 5,866,814**. More specifically, Applicants arguments in the June 1st 2004 response to the NON-Final office action where the Applicant argues on Page 4;

"There is no disclosure, discussion or mention of a normalizing factor in the '814 patent."

And from Page 5,

"The pending claims are rather directed to a new and non-obvious step of applying a normalizing factor."

The Examiner has found Applicants arguments to be persuasive and withdraws the NON-Statutory Double Patenting rejection of Claim 1.

REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance:

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Art Unit: 2123

4.1 The prior art of record does not expressly teach or make obvious the claimed invention as recited in independent Claims 1 and 9. Applicant argued, on page 6, of the June 1st 2004 response to the Examiner's First Office Action on the merits that;

"Applicants do not agree, however, that the Hinchman disclosure would lead one of ordinary skill in the art to develop the particular "normalizing factor" that is taught and used by the applicants in the methods of independent claims 1 and 9."

And further argued on page 7;

"A principal distinction of Hichman's method is that it can only be practiced if a computer simulation has been prepared for some portion of the region of interest."

And further argued on page 8;

"These requirements and methodologies are in sharp contrast to the applicant's method which gathers rock samples during actual drilling operations."

In regards to independent Claims 1 and 9 the Examiner has found Applicant's arguments to be persuasive and withdraws the 35 U.S.C. 103(a) prior art rejections of these claims. Further and after consideration in light of Applicant's arguments, the prior art does not expressly provide motivation to integrate the related teachings of *Hichman* and *Jones et al.* to integrate these related teachings to yield the instant invention. In the instant case, taking into consideration applicant's arguments, the nature of the art under consideration, and the skill level required, one would need some impetus and direction to modify the individual teachings to result in the integrated steps as recited in the claims, this impetus is lacking in the prior art.

4.2 As regards independent Claims 10, 13 and 14, the Applicant has argued on page 9 of the June 1st 2004 response that:

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"Hinchman does not even mention API gravity values."

The Examiner notes that both the *Hinchman* and *Jones et al.* references are deficient in that they do not expressly disclose the limitation of an API gravity value. The 35 U.S.C. 103(a) statutes require that all claimed limitations must be disclosed by one of the references used in combination to fulfill the patentability test. The prior art of record has failed to teach or make obvious the limitation of the API gravity value as argued by the Applicant in the June 1st 2004 response. Therefore Independent Claims 10, 13 and 14 possessing the non-obvious limitation of API gravity value in combination with the other limitations in these independent claims, make a non-obvious innovation over the prior art.

4.3 Dependent **Claims 2-8, 11, 12, 15-19 and 21-32** are allowed as they depend from allowable independent base claims.

4.4 Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

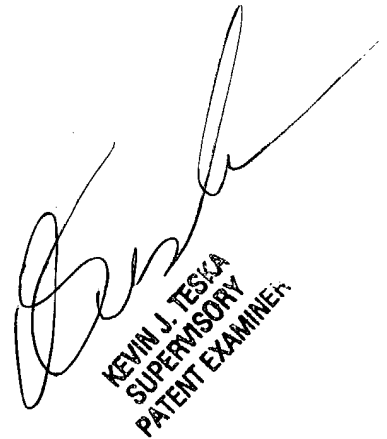
5. Claims 1-32 are allowed.

5.1 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwin M Craig whose telephone number is 703 305-7150. The examiner can normally be reached on 10:00 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on 703 305-9704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DMC



KEVIN J. TESKA
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PATENT EXAMINER